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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
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3 UNITED STATES OF AMERICA,

4 v.

19 CR 472 (PAC)

5 SALVATORE TAGLIAFERRO,  
6 JOHN DeFALCO,

7 Defendants.

REMOTE TELECONFERENCE

8 -----x  
9 New York, N.Y.  
10 May 29, 2020  
11 2:30 p.m.

12 Before:

13 HON. PAUL A. CROTTY,

District Judge

14 APPEARANCES

15  
16 GEOFFREY S. BERMAN,  
17 United States Attorney for the  
Southern District of New York  
18 JARROD L. SCHAEFFER  
THOMAS McKAY  
Assistant United States Attorneys

19 MICHAEL K. BACHRACH  
20 RICHARD H. ROSENBERG  
Attorneys for Defendant Tagliaferro

21 JEFFREY H. LICHTMAN (Incoming attorney)  
22 JEFFREY B. EINHORN (Incoming attorney)  
ROBERT G. STAHL (Outgoing attorney)  
23 Attorneys for Defendant DeFalco

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1 (Remote teleconference)

2 (Case called)

3 MR. SCHAEFFER: Jarrod Schaeffer and Thomas McKay, for  
4 the government. Good afternoon, your Honor.

5 THE COURT: Good afternoon, Mr. Schaeffer and  
6 Mr. McKay.

7 MR. LICHTMAN: Jeffrey Lichtman and Jeffrey Einhorn  
8 for John DeFalco. Good afternoon, your Honor.

9 MR. STAHL: Robert Stahl, on behalf of John DeFalco as  
10 well. Good afternoon, your Honor.

11 THE COURT: Good afternoon, Mr. Stahl.

12 MR. ROSENBERG: Good afternoon, your Honor.

13 Richard Rosenberg and Michael Bachrach, for Salvatore  
14 Tagliaferro, who's on the line.

15 THE COURT: Good afternoon.

16 Let's take up the substitution of counsel first.

17 Who wants to be relieved?

18 MR. STAHL: That is myself, your Honor, Robert Stahl.

19 THE COURT: And who's the successor attorney,  
20 Mr. Stahl?

21 MR. STAHL: That would be Jeffrey Lichtman and  
22 Mr. Einhorn.

23 THE COURT: I'm signing the papers; so you are  
24 relieved. Who's replacing him?

25 MR. LICHTMAN: It's Lichtman and Einhorn.

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1           THE COURT: Lichtman and -- Mr. Lichtman, Mr. Einhorn.  
2           All right.

3           MR. STAHL: Thank you, your Honor.  
4           This is Robert Stahl speaking.

5           THE COURT: Mr. Einhorn, you'll file your notice of  
6 appearance, if you haven't already done so.

7           MR. EINHORN: We did, your Honor. Thank you.  
8           This is Mr. Einhorn.

9           THE COURT: Okay. Thank you.

10          And there's no problem with the transition?

11          MR. EINHORN: None.

12          THE COURT: Okay.

13          All right. Mr. Schaeffer, Mr. McKay, do you want to  
14 bring me up to date on the case?

15          MR. SCHAEFFER: Of course, your Honor.

16          This is Jarrod Schaeffer.

17          As of now, we had this status conference instead of  
18 the original scheduled trial date, in light of the COVID-19  
19 pandemic. Currently, Rule 16 discovery has been produced for  
20 several months. All parties are bound by a protective order  
21 which we understand to apply to successor counsel as well.  
22 We've discussed with both prior counsel and current counsel now  
23 for Mr. DeFalco the transfer of discovery. We understand that  
24 that has gone smoothly and has gone from one counsel to the  
25 other. Of course, if there are any other questions, we are

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1 happy to discuss that with Mr. Lichtman and Mr. Einhorn.

2 Going forward, the government has anticipated  
3 producing 3500 and *Giglio* material, as stated previously,  
4 approximately two weeks prior to trial. We defer, I think, to  
5 new counsel for Mr. DeFalco for how much time they need to get  
6 up to speed on the discovery. But our tentative proposal, your  
7 Honor, would be that we schedule a status conference again 30  
8 to 45 days from today; and then at that point, we would set a  
9 trial date likely for the late fall, depending on when jury  
10 trials are set to commence within the district.

11 THE COURT: What's your understanding of when jury  
12 trials are scheduled to commence -- recommence?

13 MR. SCHAEFFER: We're not sure at this time, your  
14 Honor. I think that Chief Judge McMahon's order indicates that  
15 they are suspended indefinitely for the current period. My  
16 estimation of late fall is to give us a date that we can work  
17 toward; of course we can reassess as we move toward that. But  
18 obviously the situation right now is dynamic, and I think that  
19 we will all be taking our cues from the health professionals.

20 THE COURT: Do the defendants have a view?

21 MR. ROSENBERG: Richard Rosenberg, on behalf of  
22 Mr. Tagliaferro.

23 Well, your Honor, basically, I think the status  
24 conferences call for -- I think 30 to 45 days is optimistic  
25 about as far as having some clarity. And I was going to

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1 suggest maybe a September date.

2 We have subpoena outstanding that has not been -- we  
3 have not been able to have compliance with as yet because of  
4 the COVID situation. We have not been able to access certain  
5 materials. We have an investigator that's on standby.  
6 Basically, he can't, in person, interview clients.

7 So we have a number of concerns about going forward.  
8 And as the government has stated, the chief judge has announced  
9 that trials are suspended *sine die* as of, at least, right now.  
10 And my co-counsel and I are both out of town. He will be out  
11 of town come this weekend aimed to really escape a COVID  
12 situation that's going on in the city. I've been upstate since  
13 early March, as a matter of fact, and working remotely as best  
14 as I can. But, of course, your Honor recognizes the  
15 limitations of that. And they've been significant, and  
16 especially in a trial of this sort, which is a significant  
17 amount of discovery and the preparation that has to be done.

18 So I think a status conference -- this is a quote,  
19 yes, a dynamic situation that's going on. And I think we all  
20 want to proceed carefully, safely, and efficiently. And, of  
21 course, you know, the virus and some of our risk factors are a  
22 concern.

23 THE COURT: All right.

24 My best information is that jury trials, criminal jury  
25 trials, will be reinstated around early in September. So I'm

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1 going to opt for a 45-day -- set a conference for mid July.

2 David, if you can get a date for me.

3 MR. ROSENBERG: Your Honor, Richard Rosenberg.

4 Just I do have a trial scheduled in front of Judge  
5 Preska for October 26, a two-week trial. I don't know what the  
6 status of that is going to be. We can revisit that as we go  
7 along.

8 THE COURT: I think that there's limited court space  
9 for criminal jury trials; there's only six or seven courtrooms,  
10 and they are going to be allocated pursuant to some kind of  
11 waterfall distribution scheme if you set a date before X, if  
12 you have one defendant, if you have two defendants, if it's a  
13 complicated case, and so forth.

14 So that's what's going to take over the allocation of  
15 the jury trials. Just because Judge Preska or any judge picked  
16 a particular date does not mean that the trial is going to go  
17 forward on that date until it's reviewed by the assignment  
18 committee. So I think there's going to be more clarity around  
19 this process by mid July.

20 So, David, can you give me a date in mid July. We'll  
21 meet again by conference call -- I won't have to come to  
22 court -- and we'll review exactly where we are at that time.

23 THE DEPUTY CLERK: Friday, July 17, at 12 noon.

24 MR. ROSENBERG: This is Richard Rosenberg.

25 I happen to be free that day, your Honor.

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1           THE COURT: Okay.

2           MR. LICHTMAN: Judge, we're free as well.

3           THE COURT: All right.

4           Can you give us the date again, David?

5           THE DEPUTY CLERK: July 17 at 12 noon.

6           MR. BACHRACH: Michael Bachrach Mr. Tagliaferro. I'm  
7 available that day.

8           THE COURT: Okay. And what we'll do is it may well be  
9 that we'll adjourn if we don't have any more information than  
10 we have now. I'll adjourn the conference to a subsequent date.  
11 But hopefully we'll have more precise information; we can do  
12 better planning.

13           In the meantime, I guess people will go ahead and make  
14 whatever schedules they think are appropriate. I'm not asking  
15 you to block out any time; I don't think that's a prudent thing  
16 to do.

17           At any rate, why don't I exclude time to mid July.

18           Mr. Schaeffer?

19           MR. SCHAEFFER: Yes, your Honor. We'd ask you to do  
20 that to allow new counsel to get up to speed and to allow all  
21 counsel to continue to review the discovery and prepare for  
22 trial.

23           MR. ROSENBERG: On consent, your Honor.

24           MR. LICHTMAN: The same for Mr. DeFalco.

25           Jeffrey Lichtman.

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1           THE COURT: Thank you.

2           All right. The time between now and July 17th will be  
3 excluded. It's in the interest of justice to do so. Those  
4 interests outweigh the interests of the public and the  
5 defendant in a speedy trial.

6           Anything else to take up today, gentlemen?

7           MR. ROSENBERG: Just my best wishes, your Honor --  
8 Richard Rosenberg -- for everyone to stay well.

9           THE COURT: Same to you, Mr. Rosenberg, and to  
10 everybody else as well.

11          MR. LICHTMAN: Thank you, Judge.

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